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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/420,275

10/18/1999

MIGUEL DAJER

9-3-29

2584

7590

08/27/2003

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EXAMINER

RAMOS FELICIANO, ELISEO

ART UNIT

PAPER NUMBER

2681

DATE MAILED: 08/27/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

gm

Advisory ActionApplication No.
09/420,275Applicant(s)
DAJER et al.Examiner
ELISEO RAMOS-FELICIANOArt Unit
2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Jun 30, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Jun 30, 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE:

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see attachment.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☒ Other: see attached PTO-892.

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ADVISORY ACTION

Response to Arguments

Applicant's arguments filed on June 30, 2003 (hereinafter simply referred as "the Response") have been fully considered but they are not persuasive.

1. Applicant argues that Andersson et al. (USPN 6,400,966) fail to teach or suggest assigning a plurality of carriers to each of at least a subset of the channel elements. (See page 2, sixth paragraph, page 3, third paragraph, and page 4, first paragraph, *inter alia*, of the Response).

In a set of N elements, a "subset" can be any between 0, 1, 2,... N. For example, a set of N=2 may contain either two subsets of 1 each, or one subset of 2. In other words, the complete set as a whole can be a subset of itself, i.e. an inclusive set; see Merriam-Webster's Collegiate Dictionary, 10th. ed., ©1997, page 1174: "subset" (hereinafter simply referred as "the Dictionary").

In light of the Dictionary definition Andersson et al. meets each and every limitation, e.g. of claim 1. The set or subset of channel elements (e.g. RESOURCE, etc.) is assigned to each of a plurality of carriers of the system (e.g. Carrier 1, etc.); as show in Figure 9A of Andersson et al.

In fact, "at least a subset" (e.g., the set or inclusive set) is assigned "to each of a plurality of carriers of the system".

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2. Applicant argues that "none of the resources in a given one of the BBTX units in Andersson FIG. 9A is assignable to each of a plurality of carriers of the system, as required by the express limitations of claim 1". (See page 4, first paragraph of the Response).

The examiner respectfully disagrees because the claim limitation states "each of at least a subset of the channel elements of at least one of the channel unit boards is assignable to each of a plurality of carriers of the system". Should be noted that the claim language specifies a subset of elements, not an individual element. Therefore, the examiner finds this limitation in FIG. 9A, as Dean specifically exhibits channel unit boards (BBTX 1, ... BBTX N), channel elements (e.g. RESOURCE, etc.), and multiple carriers (Carrier 1, ... Carrier N1, etc.). "At least a subset" (e.g. all Resources) of at least one of the channel unit boards (e.g. BBTX 1) is assignable to each of a plurality of carriers of the system (e.g. Carriers 1 to N1).

3. Applicant argues that Andersson et al. "fails to anticipate the multi-carrier channel pooling arrangement of claim 1". (See page 4, third paragraph, and page 2, last paragraph of the Response).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the multi-carrier channel pooling arrangement") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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4. Applicant argues that "the term 'at least a subset of the channel elements' means any subset of the total set of channel elements, or in other words, one or more of the channel elements". (See page 4, fourth paragraph to page 5, first paragraph of the Response). Applicant concludes, therefore, that this limitation is not met by Andersson. (See page 5, second paragraph of the Response).

In light of the Dictionary's definition explained above, the examiner respectfully reiterates that Andersson et al. does meet the subject limitation. The set or subset of the inclusive set of channel elements (e.g. RESOURCE, etc.) is assigned to each of a plurality of carriers of the system (e.g. Carrier 1, etc.); as show in Figure 9A.

5. Applicant repeats the same arguments with respect to the rest of the claims. (See page 5, third paragraph to page 7, second paragraph of the Response).

ELISEO RAMOS-FELICIANO
PATENT EXAMINER

ERF/erf
August 22, 2003.


SINH TRAN
PRIMARY EXAMINER